

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

|  |   |                      |
|--|---|----------------------|
| In the Matter of   | ) |                      |
|  | ) |                      |
| Service Rules for the 698-746, 747-762<br>and 777-792 MHz Bands  | ) | WT Docket No. 06-150 |
|  | ) |                      |
| Revision of the Commission's Rules to<br>Ensure<br>Compatibility with Enhanced 911<br>Emergency<br>Calling Systems   | ) | CC Docket No. 94-102 |
|  | ) |                      |
|  | ) | WT Docket No. 01-309 |
|  | ) |                      |
| Section 68.4(a) of the Commission's Rules<br>Governing Hearing Aid-Compatible<br>Telephones  | ) | WT Docket No. 03-264 |
|  | ) |                      |
|  | ) |                      |
| Biennial Regulatory Review – Amendment<br>of Parts 1, 22, 24, 27, and 90 to Streamline<br>and Harmonize Various Rules Affecting<br>Wireless Radio Services                       | ) | WT Docket No. 06-169 |
|  | ) |                      |
|  | ) |                      |
| Former Nextel Communications,<br>Inc. Upper 700 MHz Guard Band<br>Licenses and Revisions to Part 27<br>of the Commission's Rules   | ) | PS Docket No. 06-229 |
|  | ) |                      |
|  | ) |                      |
| Implementing a Nationwide,<br>Broadband, Interoperable Public<br>Safety Network in the 700 MHz<br>Band   | ) | WT Docket No. 96-86  |
|  | ) |                      |
|  | ) |                      |
| Development of Operational, Technical and<br>Spectrum Requirements for Meeting<br>Federal, State and Local Public Safety<br>Communications Requirements Through<br>the Year 2010 | ) | WT Docket No. 07-166 |
|  | ) |                      |
|  | ) |                      |
| Declaratory Ruling on Reporting<br>Requirement under Commission's Part 1<br>Anti-Collusion Rule  | ) |                      |

**REQUEST FOR WAIVER OF COMMISSION RULES**

**Ada County, ID**

Before the  
Federal Communications Commission  
Washington, D.C. 20554

Nicola Jansen

## I. INTRODUCTION

Ada County hereby respectfully requests that the Federal Communications Commission (“Commission” or “FCC”) grant a waiver of the prohibition on new operations to permit deployment of Ada County’s subscribers units on their operational 700 MHz system. The Commission has prohibited “authorization . . . of any new narrowband operations in Channels 63 and 68, or in the upper 1 megahertz of channels 64 and 69,” after August 30, 2007.<sup>1</sup> A recent public notice further states that narrowband equipment may be placed into operation after August 30, 2007, but only in the new consolidated narrowband block.<sup>2</sup> Thus, Ada County respectfully requests that the Commission grant a waiver of the prohibition to permit deployment of new equipment, including handsets and base stations, after August 30, 2007 to operate in conjunction with Ada County’s already-licensed 700 MHz system.<sup>3</sup> Without such a waiver, the Commission’s policy poses a significant threat to Ada County’s plans to complete implementation of a needed new life-saving communication system in its jurisdiction.

---

<sup>1</sup> *Service Rules for the 698-746, 747-762 and 777-792 MHz Bands*, WT Docket No. 06-150, Second Report and Order, FCC 07-132 (rel. Aug. 10, 2007) (“Order” or “Second Report and Order”).

<sup>2</sup> New Public Safety Narrowband Operations Outside of the 700 MHz Consolidated Block Prohibited as of August 30, 2007, Public Notice, PS Docket No. 06-229, WT Docket No. 96-86, DA 07-3644 (August 16, 2007).

<sup>3</sup> **Ada County** recognizes that, pursuant to the Order, this new equipment will not be eligible for relocation funding. **Ada County** disagrees with this policy against relocation funding, but notes that this Request for Waiver does not address reimbursement issues. Thus, **Ada County** seek this waiver request without prejudice to any future motions opposing the policy for relocation funding.

## II. BACKGROUND

Ada County is comprised of four law enforcement agencies, seven fire districts and the Ada County Emergency Medical Services. Ada County's jurisdictional areas include 6-cities and the rural areas of Ada County. Currently, Ada County is in the process of completing the build out of a vital communication system on the current 700 MHz narrowband spectrum under call signs WQFC498 and WQFC499. Under these call signs Ada County is authorized frequencies 764.081250, 764.556250, 764.831250, 765.081250, 765.331250, 765.581250, 765.831250, 766.081250, 766.356250, 766.756250, 773.231250, 773.656250, 773.931250, 774.381250, 774.656250, 774.931250, 775.181250, 775.431250, 803.231250, 803.656250, 803.931250, 804.381250, 804.656250, 804.931250, 805.181250, 805.431250, 796.356250, 796.756250, 794.081250, 794.556250, 794.831250, 795.08125, 795.331250, 795.581250, 795.831250, 796.081250, 775.906250, 775.631250, 774.131250, 805.906250, 805.631250, and 804.131250. Because of the complicated nature of this process, Ada County started planning four years ago. Ada County sought budget approval in October 2004 and placed orders for equipment in December 2004. Since then, a 3 site 18-channel P-25 digital simulcast system, a master switch and 1,240 handhelds and base stations have been deployed. Full deployment of this new system was scheduled to be three years after system acceptance allotting time for agencies to apply for grants and budget funds to purchase their subscriber needs, but has since been shortened to two years to meet the FCC mandate. Given the critical need for interoperable communications in Ada County, the inability to fully utilize the operational 700

MHz radio system threatens the safety and lives of Ada County's first responders and the health and property of the public they serve.

**III. THE COMMISSION SHOULD GRANT ADA COUNTY A WAIVER OF THE COMMISSION'S RULE PROHIBITING NEW EQUIPMENT.**

Under Section 1.3 of the Commission's rules,<sup>4</sup> the Commission may exercise its discretion to waive a rule for "good cause shown."<sup>5</sup> A waiver is appropriate if special circumstances warrant a deviation from the general rule and such deviation will help serve the public interest.<sup>6</sup>

The waiver process allows the Commission to "maintain the fundamentals of principled regulation without sacrifice of administrative flexibility and feasibility."<sup>7</sup> In deciding whether or not to grant specific waiver requests, the Commission has indicated it must "take into account considerations of hardship, equity, or more effective implementation of overall policy" in its broader quest for regulation in the "public interest."<sup>8</sup> As explained below, grant of Ada County's request would serve policy objectives of the Commission, particularly the deployment of spectrum to meet public safety needs.

---

<sup>4</sup> 47 C.F.R. § 1.3.

<sup>5</sup> *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Petition of Southwestern Bell Telephone Company, Pacific Bell, and Nevada Bell for Expedited Declaratory Ruling on Interstate IntraLATA Toll Dialing Parity or, in the Alternative, Various Other Relief*, Order, 14 FCC Rcd 6806, ¶ 11 (1999).

<sup>6</sup> *Id.* (citing *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) and *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969)).

<sup>7</sup> *WAIT Radio*, 418 F.2d at 1159.

<sup>8</sup> *Id.*

Ada County will undergo significant hardship if the FCC does not waive the new rule to permit Ada County to deploy its equipment as planned. As noted above, Ada County has invested significant time and money in planning a new P-25 digital trunked simulcast communications system in the 700 MHz spectrum formerly allocated for public safety narrowband communications. Specifically, Ada County has invested over ten million dollars and over four years of planning and implementing its new system. This new system is designed to achieve a Level V, standards based, shared radio system, as defined by the SAFECOM Interoperability Continuum. Currently, the county is operating two disparate radio systems and needs to complete our build out of handheld, mobiles and base stations on the new 700 MHz system. The new system provides seamless interoperability amongst all emergency responders in the county and to other counties, and state and federal agencies that have connected to the master switch. It's imperative that we continue to allow public safety agencies to add new subscriber units to the system. The agencies are in different states of deployment, anywhere from 50% to 100% completed.

It was impossible for Ada County to fully deploy this system by the August 30, 2007 deadline. By the time the public notice was issued, Ada County was left with two weeks to deploy 232 subscriber units currently on hand but not yet on the system. Also, it will prohibit us from deploying 336 handhelds, mobiles and base stations soon to be purchased with funding from the 2007 COPS Grant awarded to Boise City. The FCC's new rule inhibits Ada County from completing final system

build out and all their efforts to deploy a state of the art, interoperable communications network would be severely disrupted and delayed. This would not only deplete precious funding, but also significantly diminish Ada County's ability to adequately meet its immediate needs for vital mission-critical voice communications.

Second, equity weighs in favor of granting Ada County a waiver of the new prohibition on deploying new equipment in eight of the twelve megahertz that is currently allocated for public safety narrowband use. Ada County has planned and designed its system based on a review of Commission rules and an expectation that such rules would remain unchanged without *significant* notice to and a reasonable period of transition for public safety entities such as Ada County. The Commission has instead given Ada County less than two weeks to either finish deploying an extensive, complicated system ahead of schedule or forfeit months, and even years of time, money and resources spent deploying this system. A freeze on equipment was not found anywhere in the proposed rules or arguably the Order and first clearly appeared in the public notice reminding public safety about the new rules. Ada County did not anticipate such a harsh result. Given Ada County's reasonable reliance on the Commission's previous plan and associated rules and the fact that Ada County could not have fairly anticipated this new requirement, both equity and responsible public policy dictate that the Commission grant Ada County a waiver of the new policy to permit deployment of Ada County's planned P-25 Digital 700 MHz trunked simulcast communications system and subscriber units.

Lastly, a waiver of the rules for Ada County would be more effective in implementing the Commission's goal of improving public safety resources. As noted above, Ada County has spent significant resources developing this system, which is partially complete. Ada County anticipates an immediate need for the system and rendering it useless would be directly contrary to any goal of improving public safety resources. Further, the Commission created the general prohibition on new equipment in order to help define and contain costs of relocation. Granting Ada County's waiver request, however, will not go against this goal; under the rules adopted in the Order, Ada County's request does not affect the cost of relocation because the equipment deployed after August 30, 2007 would not be eligible for relocation funding. Even so, because Ada County can fairly estimate which equipment will be deployed and will need to be relocated, certainty and clarity of costs would not be impacted.

Moreover, although these goals of defining and containing costs are important, they do not outweigh Ada County's immediate need to access to viable, usable spectrum in the next few years, or the public's ultimate interest in the protections afforded by such access. Ada County's system will fill an immediate need to help save lives and property in the short term. Allowing Ada County to deploy its equipment as planned will further the Commission's goal of helping public safety provide the most effective and efficient communications for the American public.



#### IV. CONCLUSION

Ada County respectfully requests that the Commission grant a waiver of the prohibition on deploying new equipment to permit Ada County to deploy new equipment for existing operations outside of the consolidated narrowband blocks. Ada County's circumstances warrant a deviation from this rule and such deviation will help serve the public interest.

Respectfully Submitted,

By: 

**ADA COUNTY**

**Nicola Jansen  
ADA COUNTY  
7200 Barrister Drive  
Boise, Idaho 83704**